Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	MM Docket No. 00-10
Establishment of a Class A	)	RM-9260
Television Service	)	

To: The Commission

REPLY COMMENTS OF
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC. AND
THE NATIONAL ASSOCIATION OF BROADCASTERS

February 22, 2000

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SUMMARY

In our initial comments, the Association for Maximum Service Television, Inc. and the National Association of Broadcasters urged the Commission to adopt Class A rules consistent with Congress's intent to afford new protections to a limited number of low power television licensees, while at the same time preserving the public's existing full power television service. Congress included safeguards in the Community Broadcasters Protection Act of 1999 to ensure that the free, local and universal television service provided by full power stations would not be jeopardized by the grant of new Class A licenses. In these reply comments, we again urge the Commission to adopt Class A rules that take full advantage of the flexibility Congress granted full power broadcasters and the Commission to accommodate the dynamic DTV transition. We oppose those comments that propose expansive grant of Class A licenses, unduly liberal Class A operating rules, and unwarranted restrictions on full power television services. The Commission must take a reasoned approach to the Class A service, and adopt rules that will ensure that this new service does not cripple the ability of full power stations to provide robust analog and digital service to the public, both now and in the future.

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In these reply comments, the Association for Maximum Service Television, Inc. ("MSTV") and the National Association of Broadcasters ("NAB")[1] reaffirm the positions set forth in our initial comments to this proceeding[2] and oppose those comments that urge the Commission to adopt Class A rules that would jeopardize the public's full power television service and thwart the objectives of the Community Broadcasters Protection Act of 1999 (the "CBPA").[3] In particular, MSTV and NAB oppose those comments that urge the Commission to liberally grant Class A licenses to stations that fail to meet the filing deadlines and eligibility

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[1] MSTV represents nearly 400 local television stations on technical issues relating to analog and digital television services. It played a central role in developing the methodology for allotting and assigning digital television channels. NAB is a non-profit, incorporated association of television and radio stations and networks, which serves and represents the American broadcasting industry.

[2] *See* Comments of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters, MM Docket No. 00-10 (Feb. 10, 2000) ("MSTV/NAB Comments").

[3] Community Broadcasters Protection Act of 1999, Section 5008 of Pub. L. No. 106-113, 113 Stat. 1501 (1999), Appendix I (codified at 47 U.S.C. § 336(f)).

criteria set forth in the CBPA. We also oppose those comments supporting Class A rules that would jeopardize the analog and digital service provided by full power broadcasters to the public. These positions, if adopted, would contravene the balance Congress struck between the desire to upgrade certain LPTVs to Class A status and the need to preserve the nation's free, local, and universal full power television service. A more judicious approach to the Class A service, as set forth in our initial comments and herein, would better serve the goals underlying the CBPA and the public interest.

I. THE FCC MUST GRANT CLASS A STATUS ONLY TO STATIONS THAT MEET THE ENUMERATED CRITERIA AND FILING DEADLINES SET FORTH IN THE CBPA.

In enacting the CBPA, Congress intended Class A status to be granted only to "*a small number* of license holders" that already provided a certain level of programming service, including local service, to the public.[4] In the Conference Report accompanying the CBPA, Congress explicitly noted that not all LPTVs warranted the protections of Class A status.[5] In addition, Congress recognized that any protections afforded to Class A stations could not be granted at the expense of the full power television service, and in particular, the transition to digital.[6] Therefore, Congress limited the pool of stations eligible for Class A status to those existing LPTVs that historically had provided a particular level of programming service to the

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[4] Pub. L. No. 106-113, § 5008(b)(1) (emphasis added).

[5] *See* H.R. Conf. Rep. No. 106-464, at 151 (1999) ("Conference Report") ("Moreover, it is not clear that all LPTV stations should be given such a guarantee in light of the fact that many existing LPTV stations provide little or no original programming service."); Comments of Sinclair Broadcast Group, Inc. at 7 ("Sinclair Comments").

[6] *See* Conference Report at 151; MSTV/NAB Comments at 2-4; Comments of the Association of Local Television Stations, Inc. at 5-6 ("ALTV Comments"); Comments of Blade Communications, Inc. at 2 ("Blade Comments"); Comments of Certain Channel 2-6 Licensees at 4 ("Channel 2-6 Comments"); Comments of Paxson Communications Corp. at 2-3 ("Paxson Comments"); Comments of Sarkes Tarzian, Inc. at 1-2 ("Sarkes Tarzian Comments").

public, and included safeguards in the CBPA to ensure that the new Class A service would not interfere with the analog and digital service offered to the public by full power television stations.

Despite Congress's clear intent to confer Class A status only on a "small number" of LPTVs that provided an unusual level of programming service to the public, *over 1600 stations* filed Class A eligibility certifications by the January 28, 2000 deadline.[7] This number far exceeds the limited number of stations Congress intended to receive Class A status.[8] Liberal grant of Class A status to these stations would be contrary to the intent of the CBPA and could have a devastating impact on the public's full power television service. Congress intended to preserve the service provided by a small subset of existing LPTVs, to the extent consistent with preserving full power television service. It did *not*, as some commenters urge, intend to upgrade virtually all LPTV stations to Class A status – a step that would undermine the careful balance Congress struck in enacting the CBPA.

MSTV and NAB therefore oppose the proposals of the Community Broadcasters Association ("CBA") and others urging the Commission to permit Class A certifications and applications on a going-forward basis.[9] For the same reasons, we oppose the varying proposals

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[7] *See Statements of Eligibility for Class A Low Power Television Station Status Tendered For Filing,* Public Notice (rel. Feb. 8, 2000).

[8] In the Conference Report, Congress noted that the *total* number of LPTVs was estimated to be "more than 2000 . . ., about 1,500 of which are operated in the continental United States . . . ." Conference Report at 150. Given the size of the total pool of LPTVs, the 1600 stations that applied for Class A status could hardly deemed a "small number."

[9] *See, e.g.*, Comments of the Community Broadcasters Association at 3 ("CBA Comments"); Comments of Council Tree Communications, L.L.C. at 2; Comments of Equity Broadcasting Corp. at 1-3 ("Equity Comments"); Comments of International Broadcasting Network at 3; Comments of the Martinez Group at 1; Comments of Media-Com Television, Inc. at 6 ("Media-Com Comments"); Comments of National Minority T.V., Inc. at 3; Comments of the National Religious Broadcasters Ass'n at 2-3 ("NRB Comments"); Comments of Nicolas (continued...)

of several commenters urging the Commission to grant broad exceptions to the eligibility criteria set forth in the CBPA.[10] Instead, the Commission should narrowly construe the eligibility criteria for Class A status set forth in the CBPA and confer Class A licenses only on those stations that meet both the enumerated eligibility criteria and the filing deadlines in the statute – January 28, 2000, for eligibility certifications, and within 30 days of the final Class A rules for Class A applications. As noted in our initial comments, while the Commission might have some discretion under the statute to grant eligibility certifications to stations that do not strictly meet the CBPA's enumerated criteria – discretion that should be exercised only sparingly and in extraordinary circumstances – it does not have discretion to waive the filing periods set forth in the CBPA.[11] Even if the Commission did have such discretion, it would not be in the public interest and would not satisfy the Congressional intent to confer protections on certain LPTVs that have demonstrated *in the past* the requisite level of programming service to the public.

II. THE FCC IS OBLIGATED TO ENSURE THAT THE CLASS A SERVICE DOES NOT JEOPARDIZE THE DTV TRANSITION.

Congress made clear in enacting the CBPA that the establishment of the new Class A service could not be achieved at the expense of the DTV transition.[12] Proposals advanced by CBA and certain other low power television interests would narrow the protections

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Communications Corp. at 3-4 ("Nicholas Comments"); Comments of USA Broadcasting, Inc. at 4-6 ("USA Comments"); Comments of Venture Technologies Group at 1-2 ("Venture Comments").

[10] *See, e.g.*, Comments of Community Service Television Co. at 2; Comments of First United, Inc. at 2-3; NRB Comments at 3-4; Nicolas Comments at 10-11; Comments of Telemundo Group, Inc. at 4; USA Comments at 10-11; Venture Comments at 3.

[11] *See* MSTV/NAB Comments at 15-17.

[12] *See id.* at 2-4; ALTV Comments at 5-6; Blade Comments at 2; Channel 2-6 Comments at 4; Paxson Comments at 2-3; Sarkes Tarzian Comments at 1-2.

afforded to full power DTV service by the CBPA, and must be rejected.[13] As detailed in our initial comments, the CBPA provides full power broadcasters and the Commission broad flexibility to accommodate the dynamic DTV transition process, without being impaired by the new Class A service. The flexibility to address DTV service problems includes:

- the ability of full power stations that return to their analog channels at the end of the transition to maximize the DTV service provided on those channels (even though maximization applications could not be filed for those channels by May 1, 2000);
- the ability of full power stations with two out-of-core channels to maximize their DTV service areas once granted in-core DTV channels at the end of the transition (even though maximization applications for the in-core channels could not be filed by May 1, 2000);
- the ability of full power stations on Channels 60 to 69 to relocate their DTV operations to in-core channels;
- existing full power stations' flexibility to address DTV allotment problems through channel exchanges and rulemaking petitions to amend the DTV Table;
- the ability to modify full power stations' DTV facilities and channels as needed during the transition;
- the ability to adjust the allotment parameters (including channels) included in the DTV Table to address problems during and at the end of the transition; and
- the FCC's general authority to take steps needed to preserve DTV service and "re-pack" the DTV Table at the close of the transition without impairment from the Class A service.[14]

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[13] *See, e.g.*, CBA Comments at 8-11; Media-Com Comments at 5-6; Comments of TTI, Inc. at 3, 5-6; Comments of Sherjan Broadcasting Co. at 3, 6 ("Sherjan Comments").

[14] MSTV/NAB Comments at 4-8. *See also* Sinclair Comments at 12-17 (full power stations need flexibility to change sites, change channels, increase power and adopt other engineering solutions to address DTV/NTSC conflicts during the transition); ALTV Comments at 5-6 (FCC must be extremely cautious to afford DTV stations maximum flexibility with respect to replication and maximization, including assuring that Class A does not interfere with stations that have to change their DTV channels); Blade Comments at 2-3 (FCC should broadly apply priority of DTV over Class A); Comments of the Association for America's Public Television Stations at 4-6, 8-9 ("APTS Comments").

As stated in our initial comments, the Commission must preserve the ability of full power broadcasters to maximize on their final DTV channels at the end of the transition – whether that channel is the full power station's current analog channel or a third channel not currently assigned to the station.[15] A full power station's right to maximize on its permanent DTV channel must be assured, whether or not it maximizes on its interim DTV channel.[16] The Commission must ensure that its Class A rules do not impair these essential rights.

The Association of Local Television Stations, Inc. ("ALTV") proposes in its comments that in the 13 markets where there are full power stations with two out-of-core channels, the grant of Class A status to qualifying LPTVs should be "conditional" – that is, explicitly subject to the rights of these full power stations to replicate and maximize service on their final DTV channels.[17] ALTV argues that these full power stations should not be required to file maximization applications on their out-of-core channels, but should be deemed to have met the CBPA's maximization application deadline through the filing of their maximization notices.[18] As noted in our initial comments and above, MSTV and NAB believe that the CBPA grants the Commission the flexibility to make adjustments to full power stations' allotment parameters and to approve modifications to DTV facilities at any time in order to ensure that *all* stations' replication and maximization rights are preserved, even where there is an impact on Class A stations.[19] Nonetheless, we believe that the approach suggested by ALTV has merit, in that it clarifies the rights of those full power stations with two out-of-core channels at the outset, and

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[15] *See* MSTV/NAB Comments at 7-8.

[16] *See id.;* APTS Comments at 8-9; Comments of Educational Broadcasting Corp. at 3-6.

[17] *See* ALTV Comments at 12, citing Comments of WLNY-TV, Inc. at 5-6.

[18] *See* ALTV Comments at 13.

places Class A licensees in those 13 markets on special notice that their rights will be subordinate to the need to accommodate these full power licensees at the end of the transition.[20]

In its comments, CBA argues that a full power station that applies for and receives a construction permit to reduce its DTV service area should no longer be protected out to its previous service area.[21] As explained in our initial comments, however, the CBPA does not permit the protected service area of a DTV station *ever* to be reduced below the service area provided in the DTV Table of Allotments.[22] To do so would be to read Section 336(f)(7)(A)(ii)(I), which prohibits Class A stations from causing interference to "the digital television service areas provided in the DTV Table of Allotments," out of the CBPA.[23] Moreover, as ALTV asserts in its comments, the Commission should distinguish between full power stations that intend to lower their coverage areas *permanently*, and those that file change applications to lower power on only a *temporary* basis to avoid technical problems or meet short-term marketplace realities during the DTV transition.[24] Only those stations that intend to *permanently* reduce their coverage areas should have their protected contours reduced under the CBPA. As ALTV notes, "[s]uch a distinction could be critical for new DTV facilities given the uncertainties of the DTV rollout."[25] Reducing the protected contours of those stations that

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[19] *See* MSTV/NAB Comments at 4-11.

[20] *See also* Comments of Sonshine Family Television, Inc. at 3 (failure to protect the rights of stations with two out-of-core channels to maximize post-transition would create a permanent "second class" of DTV stations).

[21] *See* CBA Comments at 11.

[22] *See* MSTV/NAB Comments at 9-11; *see also,* Comments of the Association of Federal Communications Consulting Engineers at 3 ("AFCCE Comments").

[23] 47 U.S.C. § 336(f)(7)(A)(ii)(I).

[24] *See* ALTV Comments at 6-7.

[25] *See id.* at 7.

temporarily reduce their coverage area in order to navigate the difficulties of the DTV transition would diminish unduly the full power digital service available to the public.[26]

CBA further argues that a full power station that does not construct its DTV facilities by the prescribed deadline should forfeit one of its two channels and be required to convert to DTV on its analog channel at any time up to the end of the transition.[27] Not only does this proposal fall entirely outside of the scope of the current rulemaking, it would be devastating to full power broadcasters as they confront the challenges of the DTV transition and would unjustly penalize the public that otherwise would benefit from these stations' dual analog and digital offerings. In any event, the Commission should disregard this proposal since the instant Class A rulemaking is not an appropriate forum for re-writing the DTV rules.

Finally, as stated in our initial comments, the Commission properly concluded that Class A stations must not cause "de minimis" interference to full power DTV stations.[28] The CBPA imposes a "no interference" standard on Class A stations that precludes the Commission from permitting Class A stations to cause *any* interference to full power DTV operations.[29] Moreover, the Commission should reconsider its proposal to use a 0.5% rounding allowance, as

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[26] *See* AFCCE Comments at 3 ("At present DTV service areas are protected to the extent of the allotment through the transition period. DTV stations should have the flexibility to gradually transition into a larger facility, and not be penalized if they initially seek a large facility and subsequently find that a more modest facility is warranted given market conditions; they should be able to achieve their allotted facility without regard to Class A protection through the transition period.").

[27] *See* CBA Comments at 11.

[28] *See* MSTV/NAB Comments at 4-5.

[29] *See id.*

such an allowance is inconsistent with the CBPA's prohibition on interference and could result in a detrimental cumulative impact on full power DTV operations.[30]

III. AS CBA CONCEDES, CLASS A STATIONS MUST PROTECT PENDING FULL POWER NTSC APPLICATIONS.

As explained in our initial comments, Congress could not possibly have intended to strip long-pending full power NTSC applicants of their rights to have their applications processed in due course.[31] Congress's intent in enacting the CBPA was to give certain qualified LPTVs a degree of parity with full power licensees, to the extent that this could be accomplished without jeopardizing the DTV transition or compromising the existing rights of full power stations. Congress did not intend to eliminate the existing rights of primary applicants.[32] To give new Class A applicants priority over pending full power NTSC applications would *subordinate* the rights of these primary full power applicants to new Class A applicants. As the Association for America's Public Television Stations ("APTS") observes: "it would be inequitable and contrary to the primary status of full power stations for pending full power analog applications to become secondary to subsequent low power Class A applications."[33] APTS correctly points out that "[g]iving a new Class A applicant priority over pending analog applicants would be unprecedented, as there are no known circumstances in which a later filed

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[30] *See id.;* AFCCE Comments at 4-5 ("The Commission proposes to allow Class A stations no de minimis levels of interference to DTV service, other than a 0.5% rounding allowance. We agree for the most part with the Commission's approach, but we believe the 0.5 percent rounding tolerance is overly generous. We would propose a 0.1 percent rounding tolerance . . . .").

[31] *See* MSTV/NAB Comments at 11-12.

[32] *See* Blade Comments at 4 ("Throughout the Commission's implementation of DTV, it has acted to protect the proposed allotments for qualifying pending applicants for new stations. Congress enacted the CBPA on the background of the Commission's long-standing determination to protect these applications, and no part of the CBPA explicitly reverses this protection.") (footnotes omitted); Paxson Comments at 4 (same).

application has been given precedence in this manner by the Commission."[34] Moreover, as The WB Television Network notes in its comments, "LPTV stations and translators continued to be licensed throughout the DTV 'freeze' due to their secondary status," and "[a]s a result of this disparate treatment during the freeze, it would be grossly inequitable not to require qualified LPTV stations to protect the pending NTSC proposals of those proponents who have been precluded from receiving an NTSC license as well as an initial paired DTV channel assignment during the DTV freeze because they proposed a primary service."[35]

To strip NTSC applicants of their rights would be particularly inequitable in light of the fact that "LPTV licensees cannot claim to be unaware of the plans of pending applicants . . . [because] the contours of the proposed stations were a matter of public record and known to prospective class A licensees."[36] Indeed, even CBA acknowledges that Congress could not have intended to exclude all full power NTSC applicants from protection, conceding that Class A stations may be displaced "by existing analog stations and full power applicants that have completed all processing short of grant."[37] MSTV and NAB agree with CBA that these applications are entitled to protection from Class A stations under the CBPA. However, for the reasons referenced in initial comments and above, CBA's position does not go far enough to

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[33] *See* APTS Comments at 7.

[34] *See id.*

[35] *See* Comments of The WB Television Network at 15 ("WB Comments").

[36] *See* Blade Comments at 4.

[37] *See* CBA Comments at 9.

protect full power analog applicants. The Commission must protect *all* full power NTSC applications that were on file as of the November 29, 1999 date of the CBPA's enactment.[38]

IV. OTHER ISSUES

A. Class A Applications Should Be Subject To Petitions To Deny.

A number of commenters urge the Commission to subject Class A eligibility certifications and applications to public notice and a petition to deny filing period.[39] MSTV and NAB agree that there should be an opportunity for full power applicants to file petitions to deny against Class A eligibility certifications and Class A applications. The CBPA does not provide a limited time period during which Class A eligibility certifications must be granted.[40] Therefore, the Commission has some discretion in setting a window for petitions to deny. With regard to Class A applications, the CBPA requires the Commission to grant the application of a qualifying LPTV that is acceptable for filing, that meets the interference criteria of the statute, and that is on an eligible channel, within 30 days of receipt of such application.[41] Although this provision may require an accelerated filing period, the Commission should place Class A applications on public notice and provide at least an expedited time period during which petitions to deny may be filed. Given the impact Class A licenses may have on full power television service and the huge number of Class A eligibility certifications filed, it is essential that full power stations and other interested parties have the opportunity to alert the Commission to instances where Class A applicants have not met the interference or other criteria of the statute, and to alert the

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[38] *See* APTS Comments at 6-7; Blade Comments at 3; Cosmos Comments at 3-4; Comments of Davis Television Clarksburg, LLC, *et al.*, at 3-9; Comments of KB Prime Media LLC at 3; Paxson Comments at 4-5; Sarkes Tarzian Comments at 3-4; WB Comments at 7-8.

[39] *See, e.g.*, WB Comments at 29; APTS Comments at 15-16.

[40] *See* 47 U.S.C. § 336(f)(1)(B).

Commission to the public interest harms that could result from grant of a particular Class A application, particularly where the application seeks waiver of the CBPA's eligibility standards. As noted in our initial comments and above, all Class A modification applications (which are not subject to the expedited 30-day period applicable to initial Class A applications) also should be placed on public notice, and should be subject to a 30-day petition to deny period.[42]

B. The Commission Should Not Grant Paired DTV Channels To Class A Stations.

As noted in our initial comments, the CBPA explicitly states that the Commission is not required to grant paired DTV channels to Class A licensees.[43] Rather, it would be most appropriate for Class A licensees to convert to DTV on their analog channels. At the very least, the Commission should exercise restraint, and consider granting Class A stations second digital channels only after it has greater experience with both the DTV transition and the Class A service.[44]

C. The Commission Should Not Expand The Protected Service Area Of Class A Stations.

As noted in our initial comments, MSTV and NAB agree with the Commission's proposal to use for analog Class A television the same protected areas now afforded LPTV stations under Section 74.707 of the Commission's rules.[45] As the Commission explained, "[t]his

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[41] *See* 47 U.S.C. § 336(f)(1)(C).

[42] *See* MSTV/NAB Comments at 15.

[43] *See id.* at 26; 47 U.S.C. § 336(f)(4).

[44] *See* Venture Comments at 5 (it is premature to allot DTV channels for Class A stations); Equity Comments at 24-25 (if the FCC allows Class A stations to apply for a digital channel, it should first allow those full power stations without digital allotments to apply).

[45] *See* MSTV/NAB Comments at 23-24; 47 C.F.R. § 74.707(a); *Establishment of a Class A Television Service,* Order and Notice of Proposed Rule Making, MM Docket No. 00-10, MM Docket No. 99-292, RM-9260 (adopted Jan. 13, 2000; rel. Jan 13, 2000) at ¶ 10 ("Notice").

would preserve existing service provided by LPTV stations and minimize disruption or preclusion of other services."[46] Therefore, MSTV and NAB oppose the proposals of CBA and others to expand this protected service area in any circumstances.[47] An expansion of the protection afforded to Class A stations would have a detrimental impact on the full power television service and the public that benefits from it. The Commission's proposal to retain the existing LPTV contours provides adequate protection to Class A stations, consistent with Congressional intent.

D. Class A Protections Should Not Accrue Upon Filing A Mere Eligibility Certification.

As set forth in on our initial comments, MSTV and NAB disagree with the Commission's conclusion that it must "preserve the service area of LPTV licensees from the date the Commission receives an acceptable certification of eligibility for Class A status."[48] Rather, the directive that the Commission "act to preserve" the service areas of LPTVs "pending the final resolution of a class A application" requires only that these service areas be protected from the time the Class A *application* is filed until the time that the application is resolved, because it is only during this period that the application actually is "pending resolution."[49] Given *the more than 1600* eligibility certifications filed, a requirement that the Commission preserve the contours of all stations that filed eligibility certifications would paralyze the Commission – surely a result not intended by Congress in enacting the CBPA. Therefore, MSTV and NAB

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[46] *See* Notice at ¶ 10.

[47] *See, e.g.*, CBA Comments at 6-7; Comments of the Martinez Group at 2; Nicholas Comments at 5-6.

[48] *See* MSTV/NAB Comments at 19-20; Notice at ¶ 12.

[49] *See* MSTV/NAB Comments at 20; 47 U.S.C. § 336(f)(1)(D).

oppose those comments that urge the Commission to protect the service areas of LPTVs upon filing a mere eligibility certification.

MSTV and NAB also strongly disagree with the assertion by at least one commenter that the contours of *out-of-core* LPTVs should be protected pending assignment of an in-core channel.[50] In the Notice, the Commission properly concluded that providing interference protection to such LPTVs before they are assigned in-core channels would be contrary to the CBPA's prohibition on awarding Class A status to stations outside the core.[51] Indeed, CBA itself concedes this point, arguing that an out-of-core LPTV eligible for Class A status should obtain Class A protection upon grant of a construction permit for an *in-core* channel.[52]

E. The Commission Must Not Permit Class A Modifications That Would Compromise Full Power Television Service.

In its comments, CBA argues that Class A stations must be allowed to modify facilities "in any way that does not increase the total area of interference to any other primary spectrum user."[53] We disagree. The relevant question is not whether the "total area of interference" increases, but whether "new" interference is caused to the primary station. Class A stations should not be permitted to modify their facilities in a manner that will result in any new interference. In other words, a Class A station should not be permitted to make a modification that would eliminate interference to another primary user in one area, but cause new interference to that user in another area, just because the "total area of interference" would be the same.

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[50] *See* NRB Comments at 8-9.

[51] *See* Notice at ¶ 24.

[52] *See* CBA Comments at 19. Our position with respect to the treatment of out-of-core LPTVs seeking Class A status is fully explained in our initial comments. *See* MSTV/NAB Comments at 17-18.

[53] *See* CBA Comments at 7.

Moreover, the Commission should not permit any modifications to Class A facilities that potentially could restrict the flexibility of full power stations or the Commission to make needed adjustments to full power DTV channels and facilities during and at the close of the DTV transition.

MSTV and NAB also oppose the proposals of CBA and others to permit power increases for Class A stations above the current Part 74 limits for LPTV stations.[54] The Commission properly concluded in the Notice that "the current LPTV station power levels are sufficient to preserve existing service" and that "further increases could hinder the implementation of digital television and could limit the number of Class A stations that could be authorized."[55] Any increase in the power levels for Class A stations would be unwarranted and ill-advised.

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[54] *See id.* at 22; Sherjan Comments at 5.

[55] *See* Notice at ¶ 54. The Commission further concluded that "any further power increases should await a fuller understanding of the coverage and interference potential of full service digital television station." *Id.*

V. CONCLUSION

MSTV and NAB urge the Commission to adopt Class A service rules consistent with the positions set forth in our initial comments and above.

Respectfully Submitted,

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